



March 28, 2003

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# ENGROSSED HOUSE BILL No. 1558

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DIGEST OF HB 1558 (Updated March 27, 2003 11:32 AM - DI 102)

**Citations Affected:** IC 22-4; IC 31-9.

**Synopsis:** Unemployment compensation for victims of domestic or family violence. Provides that the separation from employment when a worker has been a victim of domestic or family violence is not a disqualification for receipt of unemployment compensation. Provides that the department of workforce development shall provide training to employees who interact with claimants for benefits concerning domestic and family violence.

**Effective:** July 1, 2003.

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## Lawson L, Liggett, Mays, Whetstone

(SENATE SPONSORS — HARRISON, BOWSER, CRAYCRAFT, LUBBERS,  
ANTICH)

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January 16, 2003, read first time and referred to Committee on Labor and Employment.  
February 6, 2003, amended, reported — Do Pass.  
February 17, 2003, recommitted to Committee on Ways and Means.  
February 27, 2003, reported — Do Pass.  
March 3, 2003, read second time, ordered engrossed. Engrossed.  
March 4, 2003, read third time, passed. Yeas 98, nays 0.

### SENATE ACTION

March 13, 2003, read first time and referred to Committee on Pensions and Labor.  
March 27, 2003, reported favorably — Do Pass.

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EH 1558—LS 7291/DI 102+



March 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1558

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A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 22-4-11-1, AS AMENDED BY P.L.290-2001,  
2       SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2003]: Sec. 1. (a) For the purpose of charging employers'  
4       experience or reimbursable accounts with regular benefits paid  
5       subsequent to July 3, 1971, to any eligible individual but except as  
6       provided in IC 22-4-22 and subsection (f), such benefits paid shall be  
7       charged proportionately against the experience or reimbursable  
8       accounts of ~~his~~ **the individual's** employers in ~~his~~ **the individual's** base  
9       period (on the basis of total wage credits established in such base  
10      period) against whose accounts the maximum charges specified in this  
11      section shall not have been previously made. Such charges shall be  
12      made in the inverse chronological order in which the wage credits of  
13      such individuals were established. However, when an individual's  
14      claim has been computed for the purpose of determining ~~his~~ **the**  
15      **individual's** regular benefit rights, maximum regular benefit amount,  
16      and the proportion of such maximum amount to be charged to the  
17      experience or reimbursable accounts of respective chargeable

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employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or recredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of ~~his~~ **the individual's** benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. ~~however,~~ This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for all benefit payments which are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, any extended benefits paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and fifty percent (50%) of any extended benefits paid to an eligible individual shall be charged to the experience or reimbursable accounts of ~~his~~ **the individual's** employers in ~~his~~ **the individual's** base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under IC 22-4-12-4(c) **and benefits paid under IC 22-4-15-1(c)(8)** shall:

- (1) be paid from the fund; and
- (2) not be charged to the experience account or the reimbursable account of any employer.

(b) If the aggregate of wages paid to an individual by two (2) or more employers during the same calendar quarter exceeds the maximum wage credits (as defined in IC 22-4-4-3) then the experience or reimbursable account of each such employer shall be charged in the ratio which the amount of wage credits from such employer bears to the total amount of wage credits during the base period.

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the



most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by such individual.

(d) Except as provided in subsection (f), if an individual:

(1) voluntarily leaves an employer without good cause in connection with the work; or

(2) is discharged from an employer for just cause;

wage credits earned with the employer from whom the employee has separated under these conditions shall be used to compute the claimant's eligibility for benefits, but charges based on such wage credits shall be paid from the fund and not charged to the experience account of any employer. However, this exception shall not apply to those employers who elect to make payments in lieu of contributions, who shall be charged for all benefit payments which are attributable to service in their employ.

(e) Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in this article is not liable to make the payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in IC 22-4-4-4, nor is the experience account of any other employer liable for charges for benefits paid the individual to the extent that the unemployment compensation fund is reimbursed for these benefits pursuant to Section 121 of P.L.94-566. Payments which otherwise would have been chargeable to the reimbursable or contributing employers shall be charged to the fund.

(f) If an individual:

(1) earns wages during ~~his~~ **the individual's** base period through employment with two (2) or more employers concurrently;

(2) is separated from work by one (1) of the employers for reasons that would not result in disqualification under IC 22-4-15-1; and

(3) continues to work for one (1) or more of the other employers after the end of the base period and continues to work during the applicable benefit year on substantially the same basis as during the base period;

wage credits earned with the base period employers shall be used to compute the claimant's eligibility for benefits, but charges based on the

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wage credits from the employer who continues to employ the individual shall be charged to the experience or reimbursable account of the separating employer.

(g) Subsection (f) does not affect the eligibility of a claimant who otherwise qualifies for benefits nor the computation of ~~his~~ benefits.

(h) Unemployment benefits paid shall not be charged to the experience account of a base period employer when the claimant's unemployment from the employer was a direct result of the condemnation of property by a municipal corporation (as defined in IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an act of nature, when at least fifty percent (50%) of the employer's employees, including the claimant, became unemployed as a result. This exception does not apply when the unemployment was an intentional result of the employer or a person acting on behalf of the employer.

SECTION 2. IC 22-4-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section does not apply to an individual who is receiving benefits as determined under IC 22-4-15-1(c)(8).**

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

- (1) is physically and mentally able to work;
- (2) is available for work;
- (3) is found by the department to be making an effort to secure full-time work; and
- (4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the commissioner, unless the commissioner determines that:

(A) the individual has completed the reemployment services; or

(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the board through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3)



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of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(b) (c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment; or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and ~~holds himself~~ is available for suitable full-time work with the individual's last employer, or ~~holds himself~~ is available for any other full-time employment deemed suitable.

(c) (d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The board shall by rule prescribe the conditions under which approval of such training will be granted.

SECTION 3. IC 22-4-15-1, AS AMENDED BY P.L.290-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the

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individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this

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section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and
- (C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

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**(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article under IC 5-26.5.**

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer;
- (3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;
- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

SECTION 4. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the



commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's

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1 residence.

2 However, work under substantially the same terms and conditions  
 3 under which the individual was employed by a base-period employer,  
 4 which is within the individual's prior training and experience and  
 5 physical capacity to perform, shall be considered to be suitable work  
 6 unless the claimant has made a bona fide change in residence which  
 7 makes such offered work unsuitable to the individual because of the  
 8 distance involved. **For an individual who is not disqualified under**  
 9 **IC 22-4-15-1(c)(8), the determination of suitable work for the**  
 10 **individual must reasonably accommodate the individual's need to**  
 11 **address the physical, psychological, legal, and other effects of**  
 12 **domestic or family violence.**

13 (f) Notwithstanding any other provisions of this article, no work  
 14 shall be considered suitable and benefits shall not be denied under this  
 15 article to any otherwise eligible individual for refusing to accept new  
 16 work under any of the following conditions:

17 (1) If the position offered is vacant due directly to a strike,  
 18 lockout, or other labor dispute.

19 (2) If the remuneration, hours, or other conditions of the work  
 20 offered are substantially less favorable to the individual than  
 21 those prevailing for similar work in the locality.

22 (3) If as a condition of being employed the individual would be  
 23 required to join a company union or to resign from or refrain from  
 24 joining a bona fide labor organization.

25 (4) If as a condition of being employed the individual would be  
 26 required to discontinue training into which the individual had  
 27 entered with the approval of the department.

28 (g) Notwithstanding subsection (e), with respect to extended benefit  
 29 periods established on and after July 5, 1981, "suitable work" means  
 30 any work which is within an individual's capabilities. However, if the  
 31 individual furnishes evidence satisfactory to the department that the  
 32 individual's prospects for obtaining work in the individual's customary  
 33 occupation within a reasonably short period are good, the  
 34 determination of whether any work is suitable work shall be made as  
 35 provided in subsection (e).

36 (h) With respect to extended benefit periods established on and after  
 37 July 5, 1981, no work shall be considered suitable and extended  
 38 benefits shall not be denied under this article to any otherwise eligible  
 39 individual for refusing to accept new work under any of the following  
 40 conditions:

41 (1) If the gross average weekly remuneration payable to the  
 42 individual for the position would not exceed the sum of:

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- 1 (A) the individual's average weekly benefit amount for the  
 2 individual's benefit year; plus  
 3 (B) the amount (if any) of supplemental unemployment  
 4 compensation benefits (as defined in Section 501(c)(17)(D) of  
 5 the Internal Revenue Code) payable to the individual for such  
 6 week.
- 7 (2) If the position was not offered to the individual in writing or  
 8 was not listed with the department of workforce development.
- 9 (3) If such failure would not result in a denial of compensation  
 10 under the provisions of this article to the extent that such  
 11 provisions are not inconsistent with the applicable federal law.
- 12 (4) If the position pays wages less than the higher of:  
 13 (A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The  
 14 Fair Labor Standards Act of 1938), without regard to any  
 15 exemption; or  
 16 (B) the state minimum wage (IC 22-2-2).
- 17 (i) The department of workforce development shall refer individuals  
 18 eligible for extended benefits to any suitable work (as defined in  
 19 subsection (g)) to which subsection (h) would not apply.
- 20 SECTION 5. IC 22-4-17-2, AS AMENDED BY P.L.290-2001,  
 21 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the  
 23 department shall promptly make a determination of ~~his~~ **the**  
 24 **individual's** status as an insured worker in a form prescribed by the  
 25 board. A written notice of the determination of insured status shall be  
 26 furnished ~~him~~ **the individual** promptly. Each such determination shall  
 27 be based on and include a written statement showing the amount of  
 28 wages paid to the individual for insured work by each employer during  
 29 the individual's base period and shall include a finding as to whether  
 30 such wages meet the requirements for the individual to be an insured  
 31 worker, and, if so, the week ending date of the first week of the  
 32 individual's benefit period, the individual's weekly benefit amount, and  
 33 the maximum amount of benefits that may be paid to the individual for  
 34 weeks of unemployment in the individual's benefit period. For the  
 35 individual who is not insured, the notice shall include the reason for the  
 36 determination. Unless the individual, within twenty (20) days after such  
 37 determination was mailed to the individual's last known address, or  
 38 otherwise delivered to the individual, asks a hearing thereon before an  
 39 administrative law judge, such determination shall be final and benefits  
 40 shall be paid or denied in accordance therewith.
- 41 (b) **Except as provided in subsection (i),** the department shall  
 42 promptly furnish each employer in the base period whose experience

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1 or reimbursable account is potentially chargeable with benefits to be  
2 paid to such individual with a notice in writing of the employer's  
3 benefit liability. Such notice shall contain the date, the name and social  
4 security account number of the individual, the ending date of the  
5 individual's base period, and the week ending date of the first week of  
6 the individual's benefit period. Such notice shall further contain  
7 information as to the proportion of benefits chargeable to the  
8 employer's experience or reimbursable account in ratio to the earnings  
9 of such individual from such employer. Unless the employer, within  
10 twenty (20) days after such notice of benefit liability was mailed to the  
11 employer's last known address, or otherwise delivered to the employer,  
12 asks a hearing thereon before an administrative law judge, such  
13 determination shall be final and benefits paid shall be charged in  
14 accordance therewith.

15 (c) An employing unit, including an employer, having knowledge  
16 of any facts which may affect an individual's eligibility or right to  
17 waiting period credits or benefits, shall notify the department of such  
18 facts within twenty (20) days after the mailing of notice that a former  
19 employee has filed an initial or additional claim for benefits on a form  
20 prescribed by the board.

21 (d) In addition to the foregoing determination of insured status by  
22 the department, the deputy shall, throughout the benefit period,  
23 determine the claimant's eligibility with respect to each week for which  
24 the claimant claims waiting period credit or benefit rights, the validity  
25 of the claimant's claim therefor, and the cause for which the claimant  
26 left the claimant's work, or may refer such claim to an administrative  
27 law judge who shall make the initial determination with respect thereto  
28 in accordance with the procedure in IC 22-4-17-3.

29 (e) In cases where the claimant's benefit eligibility or  
30 disqualification is disputed, the department shall promptly notify the  
31 claimant and the employer or employers directly involved or connected  
32 with the issue raised as to the validity of such claim, the eligibility of  
33 the claimant for waiting period credit or benefits, or the imposition of  
34 a disqualification period or penalty, or the denial thereof, and of the  
35 cause for which the claimant left the claimant's work, of such  
36 determination and the reasons thereof. Except as otherwise hereinafter  
37 provided in this subsection regarding parties located in Alaska, Hawaii,  
38 and Puerto Rico, unless the claimant or such employer, within twenty  
39 (20) days after such notification was mailed to the claimant's or the  
40 employer's last known address, or otherwise delivered to the claimant  
41 or the employer, asks a hearing before an administrative law judge  
42 thereon, such decision shall be final and benefits shall be paid or



denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within twenty-five (25) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) No person may participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

**(i) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer that a claim for benefits has been made.**

SECTION 6. IC 22-4-18-1, AS AMENDED BY P.L.290-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is created a department under

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1 IC 22-4.1-2-1 which shall be known as the department of workforce  
2 development.

3 (b) The department of workforce development may:

4 (1) Administer the unemployment insurance program, the  
5 Wagner-Peyser program, the Workforce Investment Act, the Job  
6 Training Partnership Act program, including a free public labor  
7 exchange, and related federal and state employment and training  
8 programs as directed by the governor.

9 (2) Formulate and implement an employment and training plan as  
10 required by the Workforce Investment Act (29 U.S.C. 2801 et  
11 seq.), the Job Training Partnership Act (29 U.S.C. 1501 et seq.),  
12 and the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

13 (3) Coordinate activities with all state agencies and departments  
14 that either provide employment and training related services or  
15 operate appropriate resources or facilities, to maximize Indiana's  
16 efforts to provide employment opportunities for economically  
17 disadvantaged individuals, dislocated workers, and others with  
18 substantial barriers to employment.

19 (4) Apply for, receive, disburse, allocate, and account for all  
20 funds, grants, gifts, and contributions of money, property, labor,  
21 and other things of value from public and private sources,  
22 including grants from agencies and instrumentalities of the state  
23 and the federal government.

24 (5) Enter into agreements with the United States government that  
25 may be required as a condition of obtaining federal funds related  
26 to activities of the department.

27 (6) Enter into contracts or agreements and cooperate with local  
28 governmental units or corporations, including profit or nonprofit  
29 corporations, or combinations of units and corporations to carry  
30 out the duties of this agency imposed by this chapter, including  
31 contracts for the establishment and administration of employment  
32 and training offices and the delegation of its administrative,  
33 monitoring, and program responsibilities and duties set forth in  
34 this article. Before executing contracts described by this  
35 subdivision, the department shall give preferential consideration  
36 to using departmental personnel for the provision of services  
37 through local public employment and training offices. Contracting  
38 of Wagner-Peyser services is prohibited where state employees  
39 are laid off due to the diversion of Wagner-Peyser funds.

40 (7) Perform other services and activities that are specified in  
41 contracts for payments or reimbursement of the costs made with  
42 the Secretary of Labor or with any federal, state, or local public

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1 agency or administrative entity under the Workforce Investment  
 2 Act (29 U.S.C. 2801 et seq.), the Job Training Partnership Act (29  
 3 U.S.C. 1501 et seq.), or private nonprofit organization.

4 (8) Enter into contracts or agreements and cooperate with entities  
 5 that provide vocational education to carry out the duties imposed  
 6 by this chapter.

7 (c) The department of workforce development may not enter into  
 8 contracts for the delivery of services to claimants or employers under  
 9 the unemployment insurance program. The payment of unemployment  
 10 compensation must be made in accordance with 26 U.S.C. 3304.

11 (d) The department of workforce development may do all acts and  
 12 things necessary or proper to carry out the powers expressly granted  
 13 under this article, including the adoption of rules under IC 4-22-2.

14 (e) The department of workforce development may not charge any  
 15 claimant for benefits for providing services under this article, except as  
 16 provided in IC 22-4-17-12.

17 (f) The department of workforce development shall distribute  
 18 federal funds made available for employment training in accordance  
 19 with:

20 (1) 29 U.S.C. 2801 et seq., 29 U.S.C. 1501 et seq., and other  
 21 applicable federal laws; and

22 (2) the plan prepared by the department under subsection (g)(1).  
 23 However, the Indiana commission on vocational and technical  
 24 education within the department of workforce development shall  
 25 distribute federal funds received under 29 U.S.C. 1533.

26 (g) In addition to the duties prescribed in subsections (a) through (f),  
 27 the department of workforce development shall do the following:

28 (1) Implement to the best of its ability its employment training  
 29 programs (as defined in IC 20-1-18.3-3), the comprehensive  
 30 vocational education program in Indiana developed under the  
 31 long range plan under IC 20-1-18.3-10, and the skills 2016  
 32 training program established under IC 22-4-10.5.

33 (2) Upon request of the budget director, prepare a legislative  
 34 budget request for state and federal funds for employment  
 35 training. The budget director shall determine the period to be  
 36 covered by the budget request.

37 (3) Evaluate its programs according to criteria established by the  
 38 Indiana commission on vocational and technical education within  
 39 the department of workforce development under IC 20-1-18.3-13.

40 (4) Make or cause to be made studies of the needs for various  
 41 types of programs that are related to employment training and  
 42 authorized under the Workforce Investment Act and the Job

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Training Partnership Act.

(5) Distribute state funds made available for employment training that have been appropriated by the general assembly in accordance with:

(A) the general assembly appropriation; and

(B) the plan prepared by the department under subdivision (1).

**(6) Establish, implement, and maintain a training program in the nature and dynamics of domestic and family violence for training of all employees of the department who interact with a claimant for benefits to determine whether the claim of the individual for unemployment benefits is valid, to determine that employment separations stemming from domestic or family violence are reliably screened, identified, and adjudicated and that victims of domestic or family violence are able to take advantage of the full range of job services provided by the department. The training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including using the staff of shelters for battered women in the presentation of the training. The initial training shall consist of instruction of not less than six (6) hours. Refresher training shall be required annually and shall consist of instruction of not less than three (3) hours.**

SECTION 7. IC 22-4-18-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) Before March 1 of each year, the department shall determine the number of claims filed, individuals entitled to receive unemployment benefits under this article, and amount of benefits charged to the fund for those individuals who qualified for benefits due to:

(1) discharge; or

(2) leaving employment;

for circumstances resulting from domestic or family violence.

(b) The department shall submit its determination from the prior calendar year to the legislative council before June 30 of each year.

SECTION 8. IC 22-4-19-6, AS AMENDED BY P.L.290-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

(1) open to inspection; and



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(2) subject to being copied;  
 by an authorized representative of the department at any reasonable time and as often as may be necessary. The commissioner, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in ~~subsection~~ **subsections (d) and (f)**, information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The commissioner may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The commissioner may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the department of commerce in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of

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1 this article and the records of the department relating to the  
 2 unemployment tax or the payment of benefits for use by the  
 3 following governmental entities:

4 (A) department of state revenue; or

5 (B) state or local law enforcement agencies;

6 only if there is an agreement that the information will be kept  
 7 confidential and used for legitimate governmental purposes.

8 (e) The commissioner may make information available under  
 9 subsection (d)(1), (d)(2), or (d)(3) only:

10 (1) if:

11 (A) data provided in summary form cannot be used to identify  
 12 information relating to a specific employer or specific  
 13 employee; or

14 (B) there is an agreement that the employer specific  
 15 information released to the department of commerce or budget  
 16 agency will be treated as confidential and will be released only  
 17 in summary form that cannot be used to identify information  
 18 relating to a specific employer or a specific employee; and

19 (2) after the cost of making the information available to the  
 20 person requesting the information is paid under IC 5-14-3.

21 **(f) In addition to the confidentiality provisions of subsection (b),**  
 22 **any information furnished by the claimant or an agent to the**  
 23 **department to verify a claim of domestic or family violence is**  
 24 **confidential. This information shall not be disclosed to the**  
 25 **employer or any other person. Disclosure is subject to the following**  
 26 **restrictions:**

27 **(1) The claimant must be notified before any release of**  
 28 **information.**

29 **(2) Any disclosure is subject to redaction of unnecessary**  
 30 **identifying information including the claimant's address.**

31 **(g) An employee:**

32 (1) of the department who recklessly violates subsection (a), (c),  
 33 (d), ~~or~~ (e), **or (f)**; or

34 (2) of any governmental entity listed in subsection (d)(4) of this  
 35 chapter who recklessly violates subsection (d)(4) of this chapter;  
 36 commits a Class B misdemeanor.

37 ~~(g)~~ **(h)** An employee of the department of commerce or the budget  
 38 agency who violates subsection (d) or (e) commits a Class B  
 39 misdemeanor.

40 SECTION 9. IC 31-9-2-42, AS AMENDED BY P.L.133-2002,  
 41 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2003]: Sec. 42. "Domestic or family violence" means, except

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1 for an act of self defense, the occurrence of one (1) or more of the  
2 following acts committed by a family or household member:  
3 (1) Attempting to cause, threatening to cause, or causing physical  
4 harm to another family or household member without legal  
5 justification.  
6 (2) Placing a family or household member in fear of physical  
7 harm without legal justification.  
8 (3) Causing a family or household member to involuntarily  
9 engage in sexual activity by force, threat of force, or duress.  
10 For purposes of **IC 22-4-15-1** and IC 34-26-5, domestic and family  
11 violence also includes stalking (as defined in IC 35-45-10-1) or a sex  
12 offense under IC 35-42-4.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1558, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1558 as introduced.)

LIGGETT, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1558, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

CRAWFORD, Chair

Committee Vote: yeas 23, nays 0.

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EH 1558—LS 7291/DI 102+



SENATE MOTION

Mr. President: I move that Senator Antich be added as cosponsor of Engrossed House Bill 1558.

HARRISON

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1558, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1558 as printed February 28, 2003.)

HARRISON, Chairperson

Committee Vote: Yeas 9, Nays 0.

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EH 1558—LS 7291/DI 102+

